

Section 9767.12 Employee Notification.

a) An employer or insurer that offers a Medical Provider Network Plan under this article shall notify ~~each~~ every covered employee in writing about the use of the Medical Provider Network at least 14 30 days prior to the implementation of an approved MPN, at the time of hire, or when an existing employee transfers into the MPN, whichever is appropriate to ensure that the employee has received the initial notification. The notification shall also be sent to a covered employee at the time of injury. The MPN implementation notice notification(s) shall be written in English and or Spanish, whichever is more appropriate for the employee. The initial written MPN implementation notice to all covered employees notification shall at a minimum, include the following information:

1) That medical treatment for new work injuries will be provided through medical providers in the <Insert MPN Name> Medical Provider Network;

2) The effective date of coverage under the new MPN;

3) That existing work injuries may be covered under the new MPN;

4) A telephone number for the MPN Contact and an MPN website, if applicable, to obtain more information about using the MPN.

b) ~~At the time of the selection of the physician for a third opinion, the covered employee shall be notified about the Independent Medical Review process. The notification shall be written in English and Spanish. The following language may be used for the initial written MPN implementation notice provided to covered employees: “As of <Insert Effective Date>, you must obtain treatment for your new work injuries from physicians in the <Insert MPN Name> Medical Provider Network (MPN). You may also be required to use MPN physicians for your existing work injuries. Please contact your supervisor or the MPN Contact at <Insert MPN Contact number and MPN website if applicable> to obtain more information about how to get medical treatment through the MPN.”~~

c) ~~Covered employees shall be notified 30 days prior to a change of the medical provider network. If the MPN applicant is an insurer, then a copy of the notification shall be served on the insured employer. The notification shall be written in English and Spanish. The MPN implementation notice shall be provided to covered employees at least 14 days prior to the date coverage will begin under the MPN. The initial MPN notification information may be provided by mail or included on or with an employee’s paystub, paycheck or distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive this notice at least 14 days prior to the implementation of the MPN. If the employee cannot receive this notice electronically at work within the required time frame, then the supervisor shall provide this information to the employee in writing at least 14 days prior to the implementation of the MPN.~~

d) In addition, separate from the initial MPN implementation notice, a complete written MPN employee notification with the following information about coverage under the MPN being implemented shall be provided to covered employees. This notification shall be provided to a

covered employee at the time of injury, at the time of hire, or when an employee transfers into the MPN. This MPN notification shall be provided to employees in English or Spanish, whichever is more appropriate for the covered employee. Before MPN coverage is implemented, the complete written MPN employee notification shall also be posted in both English and Spanish in a conspicuous location frequented by employees during the hours of the workday and in close proximity to the workers' compensation posting required under Section 9881. The complete written MPN employee notification shall include the following information:

(1) How to contact the person designated by the employer or insurer to be the MPN eContact for covered employees to answer questions about MPNs and to resolve MPN problems. The employer or insurer shall provide a toll-free telephone number if the MPN geographical service area includes more than one area code;

(2) A description of MPN services;

(3) How to review, receive or access the MPN provider directory. ~~Nothing precludes a~~An employer or insurer ~~from shall initially providing~~ covered employees seeking a physician with a regional area listing of MPN providers in addition to maintaining and making available its complete provider listing in writing. If the provider directory is also accessible on a website, the URL address shall be listed with any additional information needed to access the directory online. The online provider listing shall be regularly updated to ensure the listing is accurate;

(4) How to access initial care and subsequent medical care;

~~(5) and what~~The mileage, time requirements and alternative access standards are required under section 9767.5;

~~(56)~~ How to access treatment if (A) the employee is authorized by the employer to temporarily work or travel for work outside the MPN's geographical service area; (B) a former employee whose employer has ongoing workers' compensation obligations permanently resides outside the MPN geographical service area; and (C) an injured employee decides to temporarily reside outside the MPN geographic service area during recovery;

~~(67)~~ How to choose a physician and change physicians within the MPN;

~~(78)~~ What to do if a covered employee has trouble getting an appointment with a provider within the MPN;

(89) How to change a physician within the MPN;

~~(910)~~ How to obtain a referral to a specialist within the MPN or outside the MPN, if needed;

~~(110)~~ How to use the second and third opinion process;

~~(124)~~ How to request and receive an independent medical review;

~~(132)~~ A description of the standards for transfer of ~~ongoing~~ care into the MPN and a notification that a copy of the policy shall be provided to an employee upon request; and

(143) A description of the standards for continuity of care policy and a notification that a copy of the policy shall be provided to an employee upon request.

~~(b)~~ (e) At the time of the selection of the physician for a third opinion, the covered employee shall be notified about the Independent Medical Review process. The notification shall be written in English ~~and~~ or Spanish, whichever is more appropriate for the employee.

Authority: Sections 133 and 4616, Labor Code.

Reference: Sections 4616, 4616.2 and 4616.3, Labor Code.

9767.16 Notice of Employee Rights Upon Termination, or Cessation of Use, or Change of Medical Provider Network

(a) The Medical Provider Network (“MPN”) Applicant is responsible for ensuring that each covered employee is informed in writing of the MPN policies under which he or she is covered and when the employee is no longer covered by ~~an~~ the Applicant’s MPN. The MPN Applicant shall ensure each covered employee is given written notice of the date of termination or cessation of use of its MPN. The written notice shall be provided to covered employees prior to the effective date of termination or cessation of use of ~~an~~ the Applicant’s MPN. The notices required by this section shall be made available in English ~~and~~ or Spanish, whichever is more appropriate for the employee.

(1) The MPN Applicant of the MPN that is being terminated or will cease to be used shall provide advise every covered employee with of the following information prior to the termination or cessation of use of the MPN in all notices of termination or cessation of use of an MPN by an MPN Applicant or insured employer:

(A) The effective date of termination or cessation of use of the MPN.

(B) ~~The insurer’s or employer’s liability for continuing care for ongoing claims, and the potential penalties that may be imposed by the WCAB for unreasonable delay or interruption of that care. Whether MPN coverage will continue under the MPN for claims arising before the effective date of the MPN’s termination or cessation of use.~~

(C) ~~The name address and telephone number of the person to MPN eContact and an MPN website, if applicable, with to address questions concerning the MPN’s termination or cessation of use, including any questions about continuity of care or transfer of care.~~

(D) ~~If there will be a For periods of no MPN coverage, due to a termination, cessation of use, or before a change to a different MPN is effective, then notice shall be given of an employee’s has the rights under Labor Code 4600 to a choice of physician under Labor Code section 4600. Specifically, an employee who has an existing industrial illness or injury that is being treated under the MPN shall have the right under Labor Code section 4600 to be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area after 30 days have elapsed from the date the employee notified the employer of his or her injury.~~

(E) Any pending Independent Medical Review under that an MPN being terminated or no longer used shall also be terminated end with the MPN coverage.

~~(2) If an MPN Applicant or insured employer is also changing MPN coverage to a different MPN, the MPN Applicant is responsible for ensuring that every covered employee is given notice of the following information in addition to the information required for an MPN termination or cessation of use:~~

~~(A) Notice that any injured worker receiving treatment from a provider not in the subsequent MPN, may be entitled to transfer of care to continue treatment with his or her current provider. Transfer of care applies when an employee has an acute, serious chronic or terminal illness or has a prior scheduled medical procedure with the non-MPN provider, pursuant to section 9767.9 of these regulations. The notice shall also advise that an employee may be required to treat within the new MPN after the transfer of care period.~~

~~(B) Notice that is required by sections 9767.12(a) and (c) for new MPN coverage and for a change of MPNs.~~

The following language may be provided in writing to covered employees to give the required notice of termination or cessation of use of an MPN: “The <Insert MPN Name> Medical Provider Network (MPN) will no longer be effective as of <Insert Date of MPN Termination or Cessation of Use>. You shall/shall not <Select Whichever is Appropriate> continue to use this MPN for work injuries occurring before this date while the MPN was in effect. Any pending Independent Medical Reviews will end with the MPN coverage. For new injuries occurring after the date MPN coverage ends, you have the right to choose your physician 30 days after you notified your employer of your injury. Please contact <Insert MPN Contact Name and Number and MPN Website If Applicable>, if you have any questions.”

(3) The notice of MPN termination or cessation of use may be provided by mail or included on or with an employee’s paystub, paycheck or distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive this notice prior to the end of MPN coverage. If the employee cannot receive this notice electronically at work within the required time frame, then the supervisor shall provide this information to the employee in writing prior to the end of MPN coverage.

~~(b) Notice of termination or cessation of use of an MPN may be combined with the notice of the change to new MPN coverage if the combined notice meets all the MPN regulatory requirements. If an MPN Applicant or insured employer is changing MPN coverage to a different MPN, the MPN Applicant that is providing the new MPN coverage is responsible for ensuring that every covered employee is given written notice of the following information at least 14 days prior to the effective date of coverage under the new MPN:~~

(1) There will be a change of MPN coverage. The old MPN coverage has ended or will end and the new MPN coverage under the <Insert New MPN Name> will begin as of <Insert New MPN Effective Date.>;

(2) Claims arising before the new MPN coverage shall/shall not <Select Whichever is Appropriate> continue to be covered under the prior MPN or no MPN;

(3) A worker with an existing injury may be able to continue treating with his or her provider for a limited period of time before being required to treat within the MPN.

(4) For periods when there is no MPN coverage, an employee has the right under Labor Code 4600 to a choice of physician 30 days after the date the employee notified the employer of his or her injury.

(5) Provide the name and number of the MPN Contact and an MPN website, if applicable, for more information about the change of MPN and the new MPN policies that apply.

~~(c) Notice of a change of MPNs shall be transmitted by the MPN Applicant providing the new MPN coverage to the Division, not less than 45 calendar days prior to the effective date of the termination or cessation of use of the MPN. A written letter signed by the MPN Applicant's authorized individual shall be submitted to DWC stating the effective date of the termination or cessation of use of the prior MPN, the planned effective date of the new MPN coverage, and shall attach a copy of the employee notice(s) to be sent to the covered employees pursuant to this section. The notices of a change of MPNs shall not be distributed without approval from DWC. If a notice is timely filed and DWC does not act by the date the notice should be distributed, then the notice shall be deemed approved. The following language may be provided in writing to covered employees to give the required notice of the change of MPN coverage: "Your Medical Provider Network (MPN) coverage for work injuries is changing. The <Insert Old MPN Name> MPN will end as of <Insert Date of Old MPN Termination>. The <Insert New MPN Name> MPN will become effective as of <Insert New MPN Effective Date>. For work injuries that occurred before the new MPN goes into effect, you shall/shall not <Select Whichever is Appropriate> continue to be covered by the prior MPN. If you have an existing injury, you may be able to continue treating with your physician for a limited period of time before you must obtain treatment under the new MPN. If you are injured after the old MPN coverage has ended but before the new MPN coverage begins, you have the right to choose your physician 30 days after you notified your employer of your injury. Please contact <Insert MPN Contact Name and Number and MPN Website, If Applicable>, if you have any questions.~~

~~(b)~~ (d) Notice of termination or cessation of use of an MPN may be combined with the notice of the change to new MPN coverage if the combined notice meets all the MPN regulatory requirements for termination or cessation of use of an MPN and for change of an MPN.

(e) The notice of a change of MPN coverage may be provided by mail or included on or with an employee's paystub, paycheck or distributed through electronic means, including email, if the covered employee has regular electronic access to email at work to receive this notice at least 14 days prior to the beginning of new MPN coverage. If the employee cannot receive this notice electronically at work within the required time frame, then the supervisor shall provide this information to the employee in writing at least 14 days prior to the beginning of new MPN coverage.

(f) The two most recent periods of MPN coverage shall be stated on the Notice to Employees Poster (DWC Form 7) required by section 9881. MPN Contact information shall also be

provided on the poster for more information about MPN coverage. The MPN employee notification(s) posted near the Notice to Employees poster shall be the complete MPN employee notification(s) of the current MPN(s) being used.

(+) (g) If a change in MPN coverage results in modifications to an MPN's plan application or results in the filing of a new MPN application, the MPN modification or new application filing shall be submitted to DWC pursuant to section 9767.8 or 9767.3, whichever is applicable. Distribution to covered employees of the ~~30~~-14-day notice of a change of MPNs shall occur after DWC's approval of an MPN modification or new MPN.

Authority: Sections 59, 124, 133, 138.3, 138.4, 4616, and 5307.3, Labor Code.

Reference: Sections 3550, 4616.2, Labor Code.

Section 9880. Written Notice to New Employees

(a) Every employer shall provide to every new employee, either at the time of hire or by the end of the first pay period, the Written Notice to New Employees concerning the rights, benefits and obligations under worker's compensation law. The content of the notice must be approved by the Administrative Director.

(b) The notice shall be easily understandable. It shall be available in both English and Spanish where there are Spanish-speaking employees.

(c) The notice provided shall be in writing, in non-technical terms and shall include the following information:

(1) The name of the current compensation insurance carrier of the employer at the time of distribution, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment;

(2) How to get emergency medical treatment, if needed;

(3) The kind of events, injuries and illnesses covered by workers' compensation;

(4) The injured employee's right to receive medical care;

(5) How to obtain appropriate medical care for a job injury;

(6) The role and function of the primary treating physician;

(7) The rights of the employee to select and change the treating physician pursuant to the provisions of Labor Code Sections 4600 to 4601, including the right to predesignate a personal physician or a medical group;

(8) A form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician," as defined by Labor Code Section 4600, or "personal chiropractor," as defined by Labor Code Section 4601;

(9) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, ~~vocational rehabilitation services~~, supplemental job displacement benefits, and death benefits, as appropriate;

(10) To whom the injuries should be reported;

(11) The existence of time limits for the employer to be notified of an occupational injury;

(12) The protections against discrimination provided pursuant to Section 132a; and

(13) The location and telephone number of the nearest information and assistance officer, including an explanation of services available.

(14) A description about Medical Provider Networks ("MPN") which includes what an MPN is, how to request information about using an MPN, the predesignation exemption from the MPN, when an employee must begin to use a physician from the MPN, and how to get more information about the MPN. The MPN Contact telephone number, MPN website URL and the periods of MPN coverage for the most recent two MPNs used by the employer shall also be stated.

AUTHORITY:

Note: Authority cited: Sections 133, 138.3, 138.4, 3550, 3551 and 5307.3, Labor Code.

Reference: Sections 139.5, 139.6, 3550, 3551, 3600, 4600, 4601, 4603, 4616, 4650, 4651, 4658.5, 4658.6, 4700, 4702 and 4703, Labor Code.

Section 9881. Posting of Notice to Employees

(a) Every employer shall post and keep posted in a conspicuous location frequented by employees during the hours of the workday a Notice to Employees.

(b) The Notice to Employees poster shall be easily understandable. It shall be posted in both English and Spanish where there are Spanish-speaking employees.

(c) The Notice to Employees poster shall include the following information:

(1) The name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment.

(2) How to get emergency medical treatment, if needed.

(3) Emergency telephone numbers for physician, hospital, ~~ambulance~~, police and firefighting services.

(4) The kinds of events, injuries and illnesses covered by workers' compensation.

(5) Advice that the employer may not be responsible for compensation because of an injury due to the employee's voluntary participation in any off-duty recreational, social, or athletic activity that is not a part of the employee's work-related duties.

(6) The injured employee's right to receive medical care.

(7) The rights of the employee to select and change the treating physician pursuant to the provisions of Labor Code Section 4600, including the right to predesignate a personal physician or medical group.

(8) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, ~~vocational rehabilitation services~~, supplemental job displacement benefits, and death

benefits, as appropriate.

(9) To whom the injuries should be reported.

(10) The existence of time limits for the employer to be notified of an occupational injury.

(11) The protections against discrimination provided pursuant to Labor Code Section 132a.

(12) The location and telephone number of the nearest information and assistance officer.

(13) A description about Medical Provider Networks (“MPN”) which includes what an MPN is, how to request information about using an MPN, the predesignation exemption from the MPN, when an employee must begin to use a physician from the MPN, and how to get more information about the MPN. The MPN Contact telephone number, MPN website URL and the periods of MPN coverage for the most recent two MPNs used by the employer shall also be stated.

(c) The employer may post the Administrative Director's approved Notice to Employee Poster provided in Section 9881.1. If the employer chooses not to use the Notice to Employee Poster provided in Section 9881.1, the employer may use a poster which meets the posting requirements of Labor Code Section 3550, includes the information required by this regulation, and has been approved by the Administrative Director.

AUTHORITY:

Note: Authority cited: Sections 133, 138.3, 139.6, 3550 and 5307.3, Labor Code. Reference: Sections 139.5, 3550, 3600, 4600, 4601, 4603, 4616, 4658.5 and 4658.6, Labor Code.

Section 9881.1. Notice to Employees Poster

[See Proposed Revisions to Notice to Employees Poster]

AUTHORITY:

Note: Authority cited: Sections 133, 138.3, 139.6, 3550 and 5307.3, Labor Code. Reference: Sections 3550, 4600, 4601, 4603, 4604.5, 4616, 4658.5 and 4658.6, Labor Code.